Supreme Court, U.S.
FILED

06-90 JUL 18 2006

OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

DAVID H. CAIN,

Petitioner,

v.

HONORABLE TIMOTHY FORSHEY, Judge for the City of Scottsdale Municipal Court, Deborah Robberson, City Attorney for the City of Scottsdale, HONORABLE MICHAEL D. JONES, Judge for the Superior Court of the State of Arizona, in and for the County of Maricopa; STATE OF ARIZONA as the Real Party in Interest, COURT OF APPEALS-DIVISION ONE for the State of Arizona, and the ARIZONA SUPREME COURT.

Respondents.

On Petition for a Writ of Certiorari from the Arizona Supreme Court

---

PETITION FOR A WRIT OF CERTIORARI

MARK R. JEWETT *
THE LAW OFFICES OF
MARK R. JEWETT, P.C.
2800 N. Central Avenue,
Suite 1750
Phoenix, Arizona 85004
(602) 340-0200

* Counsel of Record

Counsel for Petitioner

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20001

QUESTION PRESENTED

Whether due process rights were violated by the Court's acceptance of jurisdiction and presumption of guilt exercised by the issuance of a photographic radar ticket by a computer without review or involvement from any human despite the Arizona Revised Statute requiring review and certification by an officer.

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1(b) the following list identifies all of the parties appearing here and before the Arizona Supreme Court.

The Petitioner is David H. Cain.

The Respondents are Honorable Timothy Forshey, Judge for the City of Scottsdale Municipal Court, Deborah Robberson, City Attorney for the City of Scottsdale, Honorable Michael D. Jones, Judge for the Superior Court of the State of Arizona, in and for the County of Maricopa and the State of Arizona is the real party in interest, the Court of Appeals-Division One for the State of Arizona.

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IN THE

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No. ___

DAVID H. CAIN,

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v.

HONORABLE TIMOTHY FORSHEY, Judge for the City of Scottsdale Municipal Court, Deborah Robberson, City Attorney for the City of Scottsdale, HONORABLE MICHAEL D. JONES, Judge for the Superior Court of the State of Arizona, in and for the County of Maricopa; STATE OF ARIZONA as the Real Party in Interest, COURT OF APPEALS-DIVISION ONE for the State of Arizona, and the ARIZONA SUPREME COURT.

Respondents.

On Petition for a Writ of Certiorari from the Arizona Supreme Court

---

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ of Certiorari be issued to review the Judgment of the Arizona Supreme Court in this case. Across the country millions of photographic radar citations are being issued by computers without human involvement and without the presumption of innocence fundamental to our system of justice.

OPINIONS BELOW

The Opinions of the trial court, Superior Court, Arizona Court of Appeals, Division One and the Arizona Supreme Court are attached as part of the Appendix.

JURISDICTION

The Judgment of the Arizona Supreme Court was entered on April 20, 2006. This Court has jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS

14th Amendment to the U.S. Constitution.

STATEMENT OF THE CASE

I. ISSUES PRESENTED FOR REVIEW

This is an appeal from a judgment granted pursuant to a photo radar traffic citation complaint issued on December 14, 2004 ostensibly by Bill Harper, an employee of independent contractor RedFlex Traffic Systems, Inc. A trial was held on April 28, 2005 in the Scottsdale City Court and Petitioner was found responsible. A Notice of Appeal was timely filed and the matter briefed. On September 20, 2005, the Superior Court affirmed the judgment of the Scottsdale City Court. *See Minute Entry dated September 14, 2005 attached hereto as Appendix A.* The Petitioner filed a Special Action to the Court of Appeals on October 11, 2005. The Court declined jurisdiction on November 3, 2005. *See Order dated November 3, 2005 attached hereto as Appendix B.* The Petitioner filed his Petition for Review to the Arizona Supreme Court on December 5, 2005. The Arizona Supreme Court issued its ruling denying the Petition for Review on April 20, 2006. *See Order dated April 20, 2006 attached hereto as Appendix C.*

II. STATEMENT OF FACTS

A. Introduction

Financially beleaguered cities and counties across the country are turning in droves to the use of photo radar installations to identify and cite citizens who allegedly violate traffic laws. These installations are routinely installed, maintained and operated by non-governmental, independent, subcontractors who operate the systems for profit. The contractors, such as RedFlex Traffic Systems, Inc. in this case, offer to install the necessary equipment for the City and then operate the ticket-giving devices for a substantial percentage of the revenue generated by the tickets. In Scottsdale, Arizona more than 10,000 photo radar tickets are processed each month. The City enjoys a stream of revenue without any investment of capital or operating costs. No police officers are involved in the process.

The tickets are issued by RedFlex' computer which is the only way to issue so many tickets. Arizona law requires each citation must be certified by an officer. RedFlex' computer attempts to solve this problem by placing Bill Harper's name below the required certification language despite his lack of involvement. The issuance of the ticket is without the necessary presumption of innocence. The computer does not come to court and cannot be cross-examined. In short, millions of dollars of tickets cannot be refuted by any testimony resulting in a complete denial of due process.

B. Facts of this Case

On December 14, 2004, a computer placed Bill Harper's name on complaint number 04067503 against David Cain for an alleged speeding violation observed and documented only by a camera and a computer. *See Appendix D.* Bill Harper is the Custodian of Records for RedFlex Traffic Systems, Inc. which was awarded the contract for photo radar enforcement

by the City of Scottsdale. *See Appendix E.* RedFlex processes, on average, approximately 10,000 tickets each month in the City of Scottsdale. Bill Harper's name is placed by the computer as the complainant on all of them. Bill Harper similarly allows the computer to generate his name on all of the photo radar tickets for the Town of Paradise Valley, Arizona and the City of Fremont, California as the Custodian of Records for RedFlex Traffic Systems, Inc. RedFlex Traffic Systems, Inc. has contracts with approximately 54 cities around the country. Millions of people are affected by these systems.

The language above Bill Harper's computer generated name on the uniform traffic complaint provides:

> I certify upon reasonable grounds that I believe the person above committed the act(s) described and have caused this complaint to be issued on December 14, 2004. *See Appendix D.*

This certification language above Bill Harper's digitized name is required by A.R.S. §28-1561 which provides:

> A. Uniform traffic complaint forms need not be sworn to if they contain a form certification by the issuing officer in substance as follows: "I hereby certify that I have reasonable grounds to believe and do believe that the person named herein committed the offense or civil violation described herein contrary to law"
>
> B. A false certification under the provisions of subsection A is perjury.

Bill Harper readily admitted his name on the form was automatically put there by the computer.

> Q: Did you sign it, or did you cause it . . . how did you cause it to be certified?
>
> A: It's a computer generated of my signature.
>
> Q: So, you pushed a button and it did it?

A: The machine does it. Once the ticket is accepted as a incident that is viable then the computer automatically puts it on there. See Appendix E.

Knowing his computer generated name is placed below the certification language on more than 10,000 complaints in Scottsdale each month, Bill Harper readily admitted he never reviewed any information prior to the issuance of the complaint. He testified:

Q: So your signature is on here but you never reviewed the information before your signature was put on there, is that what you are saying?

A: That is correct. *See Appendix E.*

With more than 10,000 Arizona Traffic Ticket and Complaints to execute each month, it would be impossible for him to review the information in each particular case before his name was placed on the Complaint by the computer.

Mr. Harper admitted he doesn't review the supporting information for any Arizona Traffic Ticket and Complaint before his name is placed on the complaints by the computer and they are sent out to the defendants.

Mr. Cain: So you never reviewed this information?

Mr. Harper: I do not review all the information for every citation that goes out. *See Appendix E.*

The computer printed Bill Harper's name on complaint number 04067503 against David Cain in this case. The computer "certified" the Arizona Traffic Ticket and Complaint not Bill Harper. Bill Harper did not review the Ticket and Complaint against David Cain prior to its issuance. As a result, Bill Harper did not review any of the facts surrounding David Cain's case. Bill Harper had no knowledge of the information surrounding complaint number 04067503 on December 14, 2004 when it was issued. Bill Harper never personally certified there were reasonable grounds to believe

David Cain committed the traffic violation described on the Arizona Traffic Ticket and Complaint. The words on the improperly utilized "officer certification" are a sham. Due to the lack of certification by an officer as required by A.R.S. §28-1561 the Scottsdale City Court Judge never had jurisdiction and was never entitled to award judgment against David Cain.

LEGAL ARGUMENT

III. NO REASONABLE GROUNDS EXIST TO BELIEVE AN OFFENSE WAS COMMITTED BECAUSE NO OFFICER OR AGENT CERTIFIED ANYTHING; A COMPUTER MERELY RECITED THE CERTIFICATION LANGUAGE.

An unverified automated certification does not comply with A.R.S. §28-1561. This automated process invalidates and renders the statute inapplicable. A valid complaint is necessary for the Court's jurisdiction. *State ex rel. Purcell v. Superior Court In and For Maricopa County*, 109 Ariz. 460, 511 P.2d 642 (1973).

An Arizona opinion held a computerized signature did not meet the requirements for certification for Motor Vehicle Division records under A.R.S. §28-110(F). *See State of Arizona v. Johnson,* 184 Ariz. 521, 911 P.2d 527 (1995). The Court stated:

> ". . . competency to make a certification requires the person making the certification to (1) review the documents he or she has certified; (2) be familiar with the person who prepared the documents that have been certified; and (3) be familiar with the manner in which the documents were prepared.

Id. at p. Ariz. 530, P.2d 524. See also *Villas at Hidden Lakes Condominiums Assoc'n v. Geupel Construction Co., Inc.* 174 Ariz. 72, 847 P.2d 117 (App.1992).

The Court in *Johnson* concluded despite the presence of the computer generated facsimile signature on each page, because the supporting documents were never actually reviewed the certification was invalid. In this case certification of the uniform traffic complaint form was similarly invalid because despite the presence of Bill Harper's computerized name, he never reviewed any documents prior to the issuance of the ticket on December 14, 2004.

The procedure for certification presented in this case by Bill Harper did not meet statutory requirements and violated due process. Reviewing the citation itself does nothing to make certain there were reasonable grounds to believe David Cain committed the alleged acts.

U.S. Citizens need to know whether a computer or a robot can swear out a complaint without human input and reasoning. Can an individual without any knowledge of the alleged offense or computer machinations testify meaningfully at trial? By hiding the computer which created the complaint and technicians who run the computer behind Bill Harper how is it possible to effectively confront the accusing officer in Court. There is no accusing officer with knowledge. This Court's guidance is desperately needed to control an automated traffic citation system run amok.

IV. THE COURT OF APPEALS IS CONCERNED ABOUT PHOTO RADAR TICKET CERTIFICATION DEFICIENCIES.

In a companion case the Arizona Court of Appeals declined jurisdiction. Presiding Judge Jefferson Lankford therein expressed concern about the enforceability of the judgment and the defective nature of the certification process used for the photo radar ticket in that case.

Judge Lankford, in his Order (*See Appendix F*) expressed his concern ". . . that if the municipal court proceeding was

jurisdictionally defective, a motion to set aside the default judgment might not be required for the superior court review of the municipal court judgment." *See Hirsch v. Nat'l Van Lines, Inc.*, 136 Ariz. 304, 311, 666 P. 2d 49, 56 (1983). Additionally Judge Lankford expressed his concern "that if a computer-generated certification in fact does not represent a certification by a person, the certification might be defective and might deprive the municipal court of jurisdiction." *See State ex rel. Purcell v. Superior Court,* 109 Ariz. 460, 461, 511 P.2d 642, 643 (1973).

These deficiencies violate fundamental notions of federal due process.

V. PROCEDURAL DUE PROCESS WAS VIOLATED.

This Court should exercise its discretion to address the federal questions raised herein. Just like many other states Arizona's automated traffic law enforcement system violates the procedural due process rights of Arizona drivers by depriving them of the presumption of innocence, by relieving the prosecution of its burden to prove every element of the alleged violation beyond a reasonable doubt, by shifting the burden of proof to the accused, and by compelling an accused to testify in his or her own defense.

"The requirement that guilt of a criminal charge be established by proof beyond a reasonable doubt dates at least from our early years as a Nation." *In re Winship*, 397 U.S. 358, 361 (1970). This procedural safeguard of due process is "basic in our law and rightly one of the boasts of a free society . . . ." *Id.* at 362 (quoting *Leland v. Oregon*, 343 U.S. 790, 802-03 (1952) (Frankfurter, J., dissenting)). "The reasonable-doubt standard plays a vital role in the American scheme of criminal procedure . . . [and] provides concrete substance for the presumption of innocence—that bedrock 'axiomatic and elementary' principle whose 'enforcement lies at the foundation of the administration of our criminal law.'"

Id. at 363 (quoting *Coffin v. United States*, 156 U.S. 432, 453 (1895)). As the Supreme Court declared in *Winship*: "Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *Id.* at 364.

The issuance of the photo radar ticket certified by a computer negates any presumption of innocence. David Cain had no opportunity to cross-examine or question the factual underpinnings of the determination made by the computer when it certified his ticket. The computer never came to court to answer questions. David Cain had no opportunity to face his accuser. The prosecution never had to prove its case. The ticket was enforced with an automated presumption of guilt.

In *Morisette v. United States*, 342 U.S. 246, 274-75 (1952), the Court held that conclusive presumptions effectively eliminate the prosecution's burden to prove an essential element of an offense and, therefore, "conflict with the overriding presumption of innocence with which the law endows the accused and which extends to every element of the crime." Reaffirming this holding in *United States v. United States Gypsum Co.*, 438 U.S. 422, 446 (1978), the Court observed that conclusive presumptions also impermissibly invade the fact-finding function of trials. See also *Sandstrom v. Montana*, 442 U.S. 510, 521-23 (1979)(conclusive presumptions conflict with the presumption of innocence, violate the reasonable doubt standard, and invade the fact-finding function of a trial). Therefore, the conclusive presumption of guilt exercised by the photo radar ticket process violates the procedural due process rights of David Cain.

CONCLUSION

Forcing a U.S. Citizen to answer a complaint never seen or reviewed by any person issued only by a computer which merely provides the required certification language is illegal. Forcing U.S. Citizens to take significant time out of their lives just to go the courthouse to say the picture in the photograph is not them is the real harm caused by the automated system. The money-making convenience of RedFlex is not important enough to ignore constitutional due process rights and the established law in Arizona requiring complaints to be certified by an officer. What if RedFlex began having their computer work performed more cheaply in India, for example, as many corporations have done. Is it acceptable for U.S. Citizens to be cited by a computer located in another country? Petitioner respectfully requests the Court grant this Petition for a Writ of Certiorari to address these important issues.

Respectfully submitted,

MARK R. JEWETT *
THE LAW OFFICES OF
MARK R. JEWETT, P.C.
2800 N. Central Avenue,
Suite 1750
Phoenix, Arizona 85004
(602) 340-0200

* Counsel of Record

Counsel for Petitioner

APPENDIX

APPENDIX A

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

[Filed 09/20/2005]

LC2005-000529-001 DT

STATE OF ARIZONA

v.

DAVID HOWARD CAIN (001)

RECORD APPEAL RULE/REMAND

SCOTTSDALE CITY COURT

Cit. No.: #04067503
Lwr. Crt. No.: #PR200450944
Charge: A) SPEED/REASONABLE AND PRUDENT
DOB: 04/29/60
DOC: 12/04/04

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This case has been under advisement since its assignment and this Court has considered and reviewed the record of the proceedings from the Scottsdale City Court, and the memoranda submitted.

Appellant, David H. Cain, was charged and found responsible of the civil traffic violation of Speeding, known as "photo radar", in violation of A.R.S. Section 28-701(A). The only issues raised by the Appellant concern his assertions that

the computer generated complaint that was filed in this case failed to confer jurisdiction upon the Scottsdale City Court. This Court rejects Appellant's contentions and finds that the court was vested with jurisdiction to hear the matter. This Court further finds that there is no question but that the court had jurisdiction over Appellant in this matter. I find no error.

IT IS ORDERED affirming the judgment of responsibility and sanction imposed.

IT IS FURTHER ORDERED remanding this matter back to the Scottsdale City Court for all further and future proceedings in this case.

/s/ HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT

APPENDIX B

COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

[Filed Nov. 3, 2005]

No. 1 CA-SA 05-0244

DAVID HOWARD CAIN,
Petitioner,

v.

THE HONORABLE MICHAEL D. JONES, Judge of the
SUPERIOR COURT OF THE STATE OF ARIZONA,
in and for the County of MARICOPA,
Respondent Judge,

STATE OF ARIZONA
Real Party in Interest.

ORDER

The court has considered the petition for special action filed by David Howard Cain.

IT IS ORDERED, in the exercise of its discretion, the court declines to accept jurisdiction of the special action.

DATED this 3rd day of November, 2005.

/s/ Philip Hall
Philip Hall, Presiding Judge

APPENDIX C

SUPREME COURT
STATE OF ARIZONA

402 Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007-3231
Telephone: (602) 542-9396

April 20, 2006

RE: DAVID CAIN v HON. MICHAEL JONES/
STATE OF ARIZONA

Arizona Supreme Court No. CV-05-0414-PR

Court of Appeals Division One
No. 1 CA-SA 05-0244

Maricopa County Superior Court
No. LC2005-000529-001 DT

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on April 20, 2006, in regard to the above-referenced cause:

ORDERED: Petition for Review = DENIED.

Record returned to the Court of Appeals, Division One, Phoenix, this 20th day of April, 2006.

Noel K Dessaint, Clerk

TO:

Mark R Jewett, Law Offices of Mark R Jewett PC
Deborah W Robberson, Scottsdale City Attorney
Caron L B Close, Scottsdale City Prosecutor
Hon Michael D Jones, Judge, Maricopa County Superior Court
West Publishing Company
Lexis-Nexis
Philip G Urry, Clerk, Court of Appeals, Division One, Phoenix
sdt

APPENDIX D

SCOTTSDALE CITY COURT, MARICOPA COUNTY

ARIZONA TRAFFIC TICKET AND COMPLAINT

Scottsdale City Court, Maricopa County
Arizona Traffic Ticket and Complaint

| | | |

APPENDIX E

PARTIAL TRANSCRIPT FROM TRIAL OF
APRIL 28, 2005 ON
TRAFFIC COMPLAINT NUMBER 04067503

Testimony of Bill Harper:

My name is Bill Harper and I'm employed by RedFlex Traffic Systems, Inc. as custodian of records. RedFlex Traffic Systems, Inc. has been appointed by the Scottsdale Chief of Police as the agent for the issuance of traffic citations which result in traffic camera enforcement. The fixed speed system is accurate during all phases of the light cycle. It senses when the tires of the vehicles crosses over the first sensors starting a first timing sequence. The vehicle tire then crosses a second sensor ending the timing sequence. A computer then calculates the timing distance of the vehicle giving us the speed of the vehicle. This system is accurate within plus or minus one mile per hour. The sensors are surveyed to insure that they are perpendicular to the road and the same distance from each other for their entire length. This is done for each lane that is monitored. When the system detects a vehicle crossing over it in excess of a preset speed it automatically triggers a captured image of the vehicle, the driver and license plate. This system is a work or not work system. It cannot partially operate. This system is also monitored from a remote location by a technician.

Your honor, at this time I have exhibits to introduce to the court concerning this fixed speed system. The first exhibit is a photograph of the intersection where the system is set up. There is a data bar at the top that I will go through. The data bar indicates a Saturday, 4 December 2004 at 0859 hours. The vehicle is traveling in lane three, which is the third lane from the curb. The posted speed limit is 45 miles per hour. The vehicle speed is 60 miles per hour. This is northbound Hayden and McCormick which is inside the city limits of the

City of Scottsdale. Scottsdale Police Department is very concerned for speeding and has thus selected this location. By looking at the photograph we can see that the vehicle traveling in lane three is a four door sedan preparing to enter the intersection with the light being green. Our next exhibit is going to show the vehicle continued through the intersection is now exiting this intersection traveling in lane three with the light being green. The third exhibit is going to be a photo of the front of the vehicle and this is where we will see the driver and it appears to be the person sitting at the defense table at this time. Number Four is a photo of the rear of the vehicle and that's where we are able to capture the license plates and we may gather registration information on this vehicle. Scottsdale Police Department feels that speeding through an intersection at any time is not reasonable and prudent. Intersections are inherently dangerous. Other drivers are dependent on you to be doing the speed limit so that they can calculate what they are going to do at the intersection, turning right or whatever and Scottsdale Police Department feels that the 15 miles per hour over the posted speed limit is not reasonable and/or prudent. I present these four exhibits to the Court as evidence and the State rests.

* * * *

Mr. Cain: Did you certify this ticket?

Mr. Harper: Yes.

Mr. Cain: Did you sign it, or did you cause it . . . how did you cause it to be certified?

Mr. Harper: It's a computer generated of my signature.

Mr. Cain: So, you pushed a button and it did it?

Mr. Harper: The machine does it. Once the ticket is accepted as an incident that is viable then the computer automatically puts it on there.

Mr. Cain: So how was it accepted as viable?

Mr. Harper: The person that is reviewing the incident determines that everything is true and correct on there.

Mr. Cain: What person is that?

Mr. Harper: The people that work at the RedFlex Traffic Systems.

Mr. Cain: So your signature is on here, but you never reviewed the information before your signature was put on there, is that what you are saying?

Mr. Harper: That is correct.

Mr. Cain: So you never reviewed this information?

Mr. Harper: I do not review all the information for every citation that goes out.

* * * *

Mr. Cain: Uh, how—when these tickets are sent out—how many tickets turn out being the wrong driver—not the wrong driver—but not the person that's the registered owner of the car? What percentage would you say?

Mr. Harper: I don't have that information with me.

Mr. Cain: Well, you work at the company—you would be in the best position, I think, of anyone in this room to make an educated guess.

Mr. Harper: I'm not going to do that.

* * * *

Mr. Cain: So—if I understand then this was certified by a computer and you have no knowledge of the facts, when it was certified and sent out and the Complaint was served upon me in that condition?

Mr. Harper: I do have knowledge as how it was processed. I know, I know how the system works. I know how the process goes through. I know what the steps the people need

to take in order for this to be certified before my name is placed on it.

Mr. Cain: So, I was before you in a court once before and it was my car but apparently a different driver, and I came in and you looked at me and looked at the thing and you said its not him—good-bye. So, does that happen once a day?

Mr. Harper: Possibly . . .

Mr. Cain: Okay

Mr. Harper: I don't keep records of that. I could not tell you.

Mr. Cain: Okay, I'm just trying to determine what your sense of reasonable is? If 80% of the time it was the driver that you are actually giving the citation to—would you say that was reasonable?

Mr. Harper: I could not tell you. I don't have that information.

Mr. Cain: But I'm just asking what you think is reasonable. Is 80% reasonable?

Mr. Harper: Again, I can't answer that question

* * * *

APPENDIX F

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

[Filed April 11, 2006]

No. 1 CA-SA 06-0066

DAVID HOWARD CAIN,
Petitioner,

v.

THE HONORABLE MARGARET H. DOWNIE, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA,
Respondent Judge,

STATE OF ARIZONA
Real Party in Interest.

ORDER

This special action came on regularly for conference this 11th day of April, 2006, before Presiding Judge Jefferson L. Lankford and Judges Ann A. Scott Timmer and G. Murray Snow, and the matter was taken under advisement. Judges Timmer and Snow voted to decline jurisdiction.

Judge Lankford also voted to decline jurisdiction based on the absence of a more complete record from the superior court. However, he notes that if the municipal court proceeding was jurisdictionally defective, a motion to set aside the default judgment might not be required for superior court review of the municipal court judgment. *See Hirsch v. Nat'l Van Lines, Inc.*, 136 Ariz. 304, 311, 666 P.2d 49, 56 (1983). Moreover, Judge Lankford is concerned that if a computer-

generated certification in fact does not represent a certification by a person, the certification might be defective and might deprive the municipal court of jurisdiction. *See State ex rel. Purcell v. Superior Court*, 109 Ariz. 460, 461, 511 P.2d 642, 643 (1973) (valid complaint is basis for superior court's jurisdiction over criminal traffic complaint); *State v. Johnson*, 184 Ariz. 521, 523-24, 911 P.2d 527, 529-30 (App. 1994) (computer-generated "certification" of motor vehicle records does not comply with statute requiring certification); *People v. Rose*, 805 N.Y.S.2d 506, 509 (N.Y. City Ct. 2005) (failure to verify traffic complaint would be a jurisdictionally defective accusatory instrument) (dictum). *Cf. State v. King*, 111 P.3d 1146, 1148-49 (Or. Ct. App. 2005) (special photo radar statutes create exception to Oregon's statutory requirement that officer certify traffic citation).

IT IS ORDERED that the Court of Appeals, in the exercise of its discretion, declines to accept jurisdiction of this special action.

DATED this 11th Day of April, 2006.

/s/ Jefferson L. Lankford
Jefferson L. Lankford, Presiding Judge

A true copy of the foregoing was mailed April 11, 2006 to:

Mr. Mark R Jewett
Law Offices of Mark R Jewett PC
P O Box 13538
Scottsdale, AZ 85267
Attorney for: Petitioner

Caron L B Close
City Prosecutor
Scottsdale City Prosecutor's Office
3700 N 75th St
Scottsdale AZ 85251-4433
Attorney for: Real Party in Interest

Randall M Howe
Chief Counsel
Arizona Attorney General's Office
Department of Law
1275 W Washington St
Phoenix AZ 85007

Hon Margaret H Downie, Associate Presiding Judge
Maricopa County Superior Court
Central Court Building
201 W Jefferson St
Phoenix AZ 85003-2243

Philip G Urry, Clerk
By
[Illegible]
Deputy Clerk